

GLAZER CONSTRUCTION  
CO., INC.

CONTRACT NO. V523C-1187

VABCA-5998

VA MEDICAL CENTER/  
OUTPATIENT CLINICS  
BOSTON, MASSACHUSETTS

*John P. Davey, Esq.*, Davey & Davey, P.C., Canton, Massachusetts, for the Appellant.

*Kenneth B. MacKenzie, Esq.*, Trial Attorney; *Charlma J. Quarles, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

### ORDER DISMISSING APPEAL WITHOUT PREJUDICE

1. In a JOINT STATUS REPORT filed on August 31, 2000, the parties requested that the suspension of proceedings in this appeal be extended to January 31, 2001 to permit the audit and negotiation of a termination for convenience settlement proposal.

2. This appeal was docketed on August 19, 1999. Proceedings have not gone beyond the pleading stage due for over one year as result of four separate requests for suspensions or enlargement of time. The latest of these represented that the purpose of the suspension was to permit the parties the opportunity to resolve this matter. The instant request involves the VA's evaluation of a termination for convenience settlement proposal for the purposes of negotiation. This indicates to the Board, that the sole issue within the scope of this appeal, the termination for default, is moot and that the parties are not prepared to continue with these proceedings. In this context, the Board does not consider suspending proceedings in this appeal for another five months to be reasonable.

3. Since the parties are unable to proceed in this appeal and it does not appear that they may be in a position to so proceed within a reasonable time, the appeal of Glazer Construction Company, Inc., VABCA-5998 is hereby DISMISSED WITHOUT PREJUDICE pursuant to Rule 30.

4. Either party may move at any time within three years of its receipt of this ORDER to reinstate this appeal to the active docket provided the party so moving simultaneously furnishes the Board a proposed schedule for bringing this appeal to final disposition within 120 days from date of motion.

5. Pursuant to Rule 30, should action not be taken to reinstate this appeal to the active docket within three years of the parties' receipt of this ORDER, the dismissal of this appeal shall be deemed to be with prejudice without further notice from Board.

**IT IS SO ORDERED**

DATE: **September 1, 2000**

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RICHARD W. KREMPASKY  
Administrative Judge